

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In Re Appln. of:	<b>Hans-Peter Hein</b>	Group Art Unit:	<b>Not yet assigned</b>
Serial No.:	<b>10/578,086</b>	Conf. No.:	<b>4708</b>
Filed:	<b>November 2, 2004</b>	Examiner:	<b>Not yet assigned</b>
For:	<b>PLASTIC COATING OF THE END- INNER AREA OF A CAP</b>	Atty Docket No.:	<b>D4695-00153</b>

**REQUEST TO WITHDRAW ERRONEOUS HOLDING OF ABANDONMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicants request withdrawal of the erroneous holding of abandonment of U.S. Patent Application No. 10/578,086 for failing to respond to a notice of missing parts and submits evidence that a response was timely filed by Applicants and was in fact acknowledged by the U.S.P.T.O.

A Notification of Missing Requirements Under 35 U.S.C. § 371 was mailed on January 10, 2008 stating that an English translation of the application, the processing fee, and an oath or declaration had not been received by the U.S.P.T.O. The Notification set a two (2) month period for reply. A copy of the Notice of Missing Requirements retrieved from PAIR with a mail room date of January 10, 2008 is attached as Exhibit A.

In correspondence dated March 7, 2008, enclosing the English translation and authorizing the associated surcharge for filing the translation to be deducted from the deposit account of applicants' attorneys, reference was made to the determination made by Lamont M. Hunter that the oath filed in the corresponding PCT application complied with 37 C.F.R. 1.497(a) and (b) during several discussions with the

undersigned attorney. A copy of the correspondence retrieved from PAIR and having a mail room date of March 7, 2008 is attached as Exhibit B, and a copy of the declaration retrieved from PAIR and having a mail room date of May 3, 2006 is attached as Exhibit C.

Accordingly, as of March 7, 2008, all requirements under 35 U.S.C. § 371 had been met by the Applicants.

A Notice of Acceptance of Application Under 35 U.S.C. § 371 and 37 C.F.R. 1.495, U.S.P.T.O. form PCT/DO/EO/903, was mailed by the U.S.P.T.O. on July 2, 2008. This Notice confirms that Applicants timely met all requirements under 35 U.S.C. § 371 and 37 C.F.R. 1.495. A copy of the Notice of Acceptance dated July 2, 2008 is attached as Exhibit D.

At this time, no other communication from the USPTO has been received by Applicants' attorney even though one (1) Notice of Abandonment was allegedly mailed November 16, 2007, three (3) Notices of Abandonment were allegedly mailed on November 20, 2008, and two (2) were allegedly mailed on July 17, 2009 according to PAIR. These Notices of Abandonment were discovered during a status check of the application in PAIR on July 20, 2009.

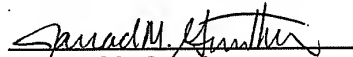
The undersigned attorney spoke with Lamont M. Hunter on July 21, 2009. Mr. Hunter stated that he has no idea why a Notice of Abandonment was ever issued in connection with this application, let alone six (6) Notices of Abandonment. Mr. Hunter stated that he would attempt to rectify the situation by removing all six (6) Notices of Abandonment from the prosecution history.

Applicants request withdrawal of all holdings of abandonment that have ever been issued in connection with this application as Applicants have met every deadline set forth by the U.S.P.T.O. Specifically, the signed declaration in accordance with 37 C.F.R. 1.497(a) and (b) was originally filed on May 23, 2006, almost 1.5 years before the Notification was ever issued, and the English translation and authorization to charge the surcharge to the deposit account of Applicants' attorney was filed on March 7, 2008, within the two (2) month period for reply set forth by the original Notification.

Moreover, the mailing of U.S.P.T.O. form PCT/DO/EO/903 on July 2, 2008 confirms that Applicants have timely submitted each of the above-referenced documents to the U.S.P.T.O.

Dated: July 21, 2009

Respectfully Submitted,



Jarrad M. Gunther  
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Duane Morris LLP - IP Dept.  
30 South 17<sup>th</sup> Street  
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(215) 979-1837  
jmgunther@duanemorris.com

EXHIBIT A

COPY



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER FOR PATENTS  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
 www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/578,086	Hans-Peter Hein	D4695-00153

8933  
 DUANE MORRIS, LLP  
 IP DEPARTMENT  
 30 SOUTH 17TH STREET  
 PHILADELPHIA, PA 19103-4196

INTERNATIONAL APPLICATION NO.

PCT/DE04/02424

I.A. FILING DATE	PRIORITY DATE
11/02/2004	11/07/2003

CONFIRMATION NO. 4708  
 371 FORMALITIES LETTER



0000000027634987

Date Mailed: 01/10/2008

**NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371  
 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)**

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated Office (37 CFR 1.494):

- Priority Document
- Copy of the International Application filed on 05/03/2006
- Copy of the International Search Report filed on 05/03/2006
- Copy of IPE Report filed on 05/03/2006
- Oath or Declaration filed on 05/03/2006
- Request for Immediate Examination filed on 05/03/2006
- U.S. Basic National Fees filed on 05/03/2006

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Translation of the application into English. Note a processing fee will be required if submitted later than 30 months from the priority date.
- Processing fee of \$130 for providing the translation of the application and/or the Annexes later than 30 months from the priority date (37 CFR 1.492(i)).
- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) in that it:
  - is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68.
  - does not identify the application to which it is directed.

## SUMMARY OF FEES DUE:

Total additional fees required for this application is \$-170 for a Large Entity:

- \$130 for English translation surcharge required.

(A previous payment of \$300 will be applied to the additional fees indicated above.)

**ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.**

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.

<https://sportal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html>

For more information about EFS-Web please call the USPTO Electronic Business Center at **1-866-217-9197** or visit our website at <http://www.uspto.gov/ebc>.

**If you are not using EFS-Web to submit your reply, you must include a copy of this notice.**

LAMONT M HUNTER

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Telephone: (703) 308-9140 EXT 201

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In Re		Group Art	
Appln. of:	<b>Hans-Peter Hein</b>	Unit:	<b>Not yet assigned</b>
Serial	<b>10/578,086</b>	Conf. No.:	<b>4708</b>
No.:			
Filed:	<b>November 2, 2004</b>	Examiner:	<b>Not yet assigned</b>
For:	<b>PLASTIC COATING OF THE END- INNER AREA OF A CAP</b>	Atty Docket	<b>D4695-00153</b>
		No.:	

**RESPONSE TO NOTICE TO FILE MISSING PARTS**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Responsive to the Notice to File Missing Parts of U.S. National Stage Application mailed on January 10, 2008 Applicant submits herewith the English Translation. The Assistant Commissioner for Patents is hereby authorized to charge the surcharge associated with the filing the translation after 30 months from the priority date, namely, \$130.00, from deposit account **04-1679**.

In conversations with Jarrad M. Gunther of Duane Morris, LLP on February 18, 2008 and March 6, 2008, Mr. Lamont M. Hunter of the U.S.P.T.O. determined that the oath filed in the corresponding PCT complies with 37 C.F.R. 1.497(a) and (b).

Applicant respectfully requests that the enclosed English Translation be entered into the above-identified pending Patent Application.

Respectfully submitted,

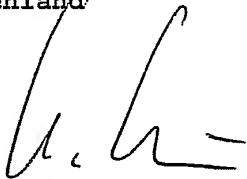
Dated: March 7, 2008

/SAMUEL W. APICELLI/  
Samuel W. Apicelli  
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EXHIBIT C



VIII-4-1	<p>Erklärung: Erfindererklärung (nur im Hinblick auf die Bestimmung der Vereinigten Staaten von Amerika) Erfindererklärung (Regeln 4.17(iv) und 51bis.1(a)(iv)) nur im Hinblick auf die Bestimmung der Vereinigten Staaten von Amerika:</p>	<p>Ich erkläre hiermit an Eides Statt, daß ich nach bestem Wissen der ursprüngliche, erste und alleinige Erfinder (falls nachstehend nur ein Erfinder angegeben ist) oder Miterfinder (falls nachstehend mehr als ein Erfinder angegeben ist) des beanspruchten Gegenstandes bin, für den ein Patent beantragt wird.</p> <p>Diese Erklärung wird im Hinblick auf die internationale Anmeldung PCT/DE2004/002424 (falls die Erklärung nach der Regel 26ter eingereicht wird).</p> <p>Ich erkläre hiermit an Eides Statt, daß mein Wohnsitz, meine Postanschrift und meine Staatsangehörigkeit den unter meinem Namen aufgeführten Angaben entsprechen.</p> <p>Ich bestätige hiermit, daß ich den Inhalt der oben angegebenen internationalen Anmeldung, einschließlich ihrer Ansprüche, durchgesehen und verstanden habe. Ich habe im Antragsformular dieser internationalen Anmeldung gemäß PCT Regel 4.10 sämtliche Auslandsanmeldungen angegeben und habe nachstehend unter der Überschrift "Frühere Anmeldungen" unter Angabe des Aktenzeichens, des Staates oder Mitglieds der Welthandelsorganisation, des Tages, Monats und Jahres der Anmeldung, sämtliche Anmeldungen für ein Patent bzw. eine Erfindurkunde in einem anderen Staat als den Vereinigten Staaten von Amerika angegeben, einschließlich aller internationalen PCT-Anmeldungen, die wenigstens ein anderes Land als die Vereinigten Staaten von Amerika bestimmen, deren Anmeldetag dem der Anmeldung, für welche Priorität beansprucht wird, vorangeht.</p>
VIII-4-1-1	Frühere Anmeldungen:	<p>103 52 672.2, DE, 11. November 2003 (11.11.2003) ; 103 51 981.5, DE, 07. November 2003 (07.11.2003)</p>

		<p>Ich erkenne hiermit meine Pflicht zur Offenbarung jeglicher Informationen an, die nach meinem Wissen zur Prüfung der Patentfähigkeit in Einklang mit Title 37, Code of Federal Regulations, § 1.56 von Belang sind, einschließlich, im Hinblick auf Teilfortsetzungsanmeldungen, Informationen, die im Zeitraum zwischen dem Anmeldetag der früheren Patentanmeldung und dem internationalen PCT-Anmeldedatum der Teilfortsetzungsanmeldung bekannt geworden sind.</p> <p>Ich erkläre hiermit, daß alle in der vorliegenden Erklärung von mir gemachten Angaben nach bestem Wissen und Gewissen der Wahrheit entsprechen, und ferner, daß ich diese eidesstattliche Erklärung in Kenntnis dessen ablege, daß wissentlich und vorsätzlich falsche Angaben oder dergleichen gemäß § 1001, Title 18 des US-Codes strafbar sind und mit Geldstrafe und/oder Gefängnis bestraft werden können und daß derartige wissentlich und vorsätzlich falsche Angaben die Rechtswirksamkeit der vorliegenden Patentanmeldung oder eines aufgrund deren erteilten Patentbeschlusses gefährden können.</p>
VIII-4-1-1-1	Name (FAMILIENNAME, Vorname)	HEIN, Hans-Peter
VIII-4-1-1-2	Sitz oder Wohnsitz (Stadt und jeweils anerkannter Staat od. Land)	Suthfeld, Deutschland
VIII-4-1-1-3	Postanschrift	Am Sportplatz 9 D-31555 Suthfeld Deutschland
VIII-4-1-1-4	Staatsangehörigkeit	DE
VIII-4-1-1-5	Unterschrift des Erfinders: (falls nicht im Antrag enthalten, oder falls die Erklärung nach der Einreichung dieser Internationalen Anmeldung laut der Regel 26ter korrigiert oder hinzugefügt wurde. Die Unterschrift soll nicht des Agenten, sondern des Erfinders sein.)	
VIII-4-1-1-6	Datum: (einer Unterschrift, die nicht im Antrag enthalten ist, oder einer Erklärung, die laut der Regel 26ter nach der Einreichung der Internationalen Anmeldung korrigiert oder hinzugefügt wurde)	08/12/2004





## UNITED STATES PATENT AND TRADEMARK OFFICE

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U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/578,086	Hans-Peter Hein	D4695-00153
8933 DUANE MORRIS, LLP IP DEPARTMENT 30 SOUTH 17TH STREET PHILADELPHIA, PA 19103-4196		
INTERNATIONAL APPLICATION NO.		
PCT/DE04/02424		
I.A. FILING DATE	PRIORITY DATE	
11/02/2004	11/07/2003	

CONFIRMATION NO. 4708  
 371 ACCEPTANCE LETTER



Date Mailed: 07/02/2008

### NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C 371 AND 37 CFR 1.495

The applicant is hereby advised that the United States Patent and Trademark Office in its capacity as a Designated / Elected Office (37 CFR 1.495), has determined that the above identified international application has met the requirements of 35 U.S.C. 371, and is ACCEPTED for national patentability examination in the United States Patent and Trademark Office.

The United States Application Number assigned to the application is shown above and the relevant dates are:

<u>03/07/2008</u>	<u>03/07/2008</u>
DATE OF RECEIPT OF 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) REQUIREMENTS	DATE OF COMPLETION OF ALL 35 U.S.C. 371 REQUIREMENTS

A Filing Receipt (PTO-103X) will be issued for the present application in due course. **THE DATE APPEARING ON THE FILING RECEIPT AS THE " FILING DATE" IS THE DATE ON WHICH THE LAST OF THE 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) REQUIREMENTS HAS BEEN RECEIVED IN THE OFFICE. THIS DATE IS SHOWN ABOVE.** The filing date of the above identified application is the international filing date of the international application (Article 11(3) and 35 U.S.C. 363). Once the Filing Receipt has been received, send all correspondence to the Group Art Unit designated thereon.

The following items have been received:

- Copy of the International Application filed on 03/07/2008
- English Translation of the IA filed on 03/07/2008
- Copy of the International Search Report filed on 05/03/2006
- Copy of IPE Report filed on 05/03/2006
- Preliminary Amendments filed on 03/07/2008
- Oath or Declaration filed on 05/03/2006
- Request for Immediate Examination filed on 05/03/2006
- U.S. Basic National Fees filed on 05/03/2006
- Priority Documents filed on 05/03/2006
- Power of Attorney filed on 05/03/2006
- Specification filed on 05/03/2006
- Claims filed on 03/07/2008
- Abstracts filed on 05/03/2006
- Drawings filed on 05/03/2006

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

LAMONT M HUNTER

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Telephone: (703) 308-9140 EXT 201